

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION, DEPARTMENT OF THE TREASURY

In the Matter of)
GARY L. HOLMAN,)
formerly an officer and)
director of Homestead Savings)
Association, Middletown,)
Pennsylvania)

Re: OTS Order No. NE96-6

Dated: March 14, 1996

STIPULATION AND CONSENT TO ISSUANCE OF CONSENT ORDER

This Stipulation and Consent to Issuance of Consent Order ("Stipulation"), concerning the accompanying CONSENT CEASE-AND-DESIST ORDER REQUIRING AFFIRMATIVE RELIEF AND CONSENT ORDER ASSESSING CIVIL MONEY PENALTY (the "Order"), is made by GARY L. HOLMAN, and is accepted by the OFFICE OF THRIFT SUPERVISION ("OTS"), an office within the United States Department of the Treasury, acting by and through its Regional Director for the Northeast Region.

R E C I T A L S

WHEREAS, GARY L. HOLMAN served as the President and a director of Homestead Savings Association, Middletown, Pennsylvania ("Homestead Savings") (OTS Docket No. 7223), which had been a federally insured savings association regulated by the OTS,¹ and

WHEREAS, GARY L. HOLMAN also served as an officer and/or director of subsidiaries and other affiliates of Homestead

1. Homestead Savings was placed into federal receivership on August 30, 1991. GARY L. HOLMAN currently is employed by a national bank regulated by the Office of the Comptroller of the Currency.

Savings, including Homestead Service Corporation, which was engaged in real estate joint venture activities in Pennsylvania and other locations, and Homestead Holding Corporation, the association's savings and loan holding company; and

WHEREAS, based on information derived from OTS formal examination No. PIT-90-17 and other exercises of its regulatory responsibilities, the OTS finds that at various times during 1986 through 1990 GARY L. HOLMAN engaged in an unsafe or unsound practice, within the meaning of 12 C.F.R. §§ 571.7 and 571.9 (1986-1990), by usurping a corporate opportunity of Homestead Service Corporation by personally participating in a real estate joint venture with a major borrower and joint venturer of Homestead Savings, which participation (without proper prior disclosure to the Board of Directors) provided financial gain to GARY L. HOLMAN; and

WHEREAS, the OTS further finds that at various times during 1988 through 1990 GARY L. HOLMAN engaged or participated in unsafe or unsound practices relating to the lending and joint venture activities of Homestead Savings and its subsidiaries, which practices contributed to loan losses suffered by Homestead Savings; and

WHEREAS, the OTS further finds that at various times during 1988 through 1990 GARY L. HOLMAN participated in violations by Homestead Savings of federal banking laws and regulations, including but not limited to 12 U.S.C. § 1464(u) (1), 12 C.F.R. § 563.17-1(c) (1989) and 12 C.F.R. § 563.160 (1990); and

WHEREAS, in view of the foregoing, the OTS has informed GARY

L. HOLMAN that the OTS is of the opinion that the grounds exist to initiate an administrative proceeding against GARY L. HOLMAN for the issuance of administrative orders, pursuant to provisions of Section 8 of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818;² and

WHEREAS, GARY L. HOLMAN wishes to cooperate with the OTS and to avoid the time and expense of administrative litigation with the OTS.

NOW, THEREFORE, GARY L. HOLMAN, without admitting or denying the OTS's findings, opinions, and conclusions expressed above (except those as to the OTS's jurisdiction over him, which are admitted in paragraph 2 below) or that the aforesaid statutory grounds exist, hereby stipulates and agrees as follows:

1. Consideration. GARY L. HOLMAN, in view of the foregoing premises and for the purposes of this settlement only, hereby voluntarily enters into this Stipulation and consents to issuance of the accompanying Order in consideration for the OTS forever releasing and discharging him from all potential administrative claims and charges that have been or might have been asserted by the OTS against him based on his alleged acts and omissions in his capacity as a director or officer of Homestead Savings, Homestead Holding Corporation, and any subsidiaries and affiliates of either of them.

2. Jurisdiction.

(a) Homestead Savings was a "savings association"

2. All references to the United States Code ("U.S.C.") in this Stipulation and the Order are to the U.S.C. as amended.

within the meaning of Section 3(b) of the FDIA, 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act, 12 U.S.C. § 1462(4), and an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) GARY L. HOLMAN acknowledges that he was an officer and director of Homestead Savings, and stipulates that with respect to Homestead Savings he is an "institution-affiliated party," as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), having served in such capacity within six (6) years of his execution of this Stipulation.

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the OTS is the "appropriate Federal banking agency" to maintain administrative enforcement proceedings against institution-affiliated parties relative to savings associations (as well as the subsidiaries and holding companies thereof), and therefore GARY L. HOLMAN stipulates that he is subject to the authority of the OTS to initiate and maintain administrative proceedings against him pursuant to provisions of Section 8 of the FDIA, including but not limited to 12 U.S.C. §§ 1818(b) and 1818(i)(2).

3. Consent. GARY L. HOLMAN consents to the issuance by the OTS of the Order, and agrees to comply with the terms of the Order. GARY L. HOLMAN further stipulates that the Order (including the OTS's issuance thereof) complies with all requirements of law.

4. Finality. The Order is issued by the OTS under the authority of 12 U.S.C. §§ 1818(b) and 1818(i)(2). Upon its issuance by the OTS (by and through its Acting Regional Director

for the Northeast Region), the Order shall be a final order that is effective and fully enforceable by the OTS under provisions of federal law, including, but not limited to, 12 U.S.C. § 1818(i).

5. Waivers. GARY L. HOLMAN, following consultation with his counsel, voluntarily and knowingly waives: (i) the right to be served with a written notice of the OTS's charges against him, which notice would be issued and served pursuant to 12 U.S.C. §§ 1818(b), 1818(i)(2) and other applicable law; (ii) the right to an administrative adjudicatory hearing of the OTS's charges against him, which hearing is provided by 12 U.S.C. §§ 1818(b), 1818(i)(2) and 1818(h)(1); (iii) the right to seek judicial review of the Order, including (but not limited to) any such right provided by section 8(h)(2) of the FDIA, 12 U.S.C. § 1818(h)(2), or otherwise to challenge the validity of the Order; and (iv) any and all claims for the award of fees, costs or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law or under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

6. Other Government Actions Not Affected.

(a) GARY L. HOLMAN acknowledges and agrees that his consent to the OTS's issuance of the Order is intended solely for purposes of settling and resolving the OTS's administrative claims against him, as provided by paragraph 1 hereof, and does not release, discharge, compromise, settle, dismiss, resolve, preclude, or in any way affect any other actions, claims, liability of, charges against, or proceedings (whether civil or criminal) against him that may be or have been brought by the OTS

or any other government agency or entity.

(b) By signing this Stipulation, GARY L. HOLMAN agrees he will not assert any of the OTS's actions concerning him as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity. Without limitation on the foregoing, none of the following shall serve as the basis for a claim of double jeopardy by GARY L. HOLMAN: the OTS's issuance of the Order; any provision of the Order (including Paragraph 6 thereof) requiring the payment of a civil money penalty (or any other monies); or GARY L. HOLMAN's payment of any moneys or providing any other financial relief as contemplated by the Order.

7. No Discharge in Bankruptcy.

(a) In any bankruptcy proceeding in which it is or may be contended that the financial obligation of GARY L. HOLMAN imposed by the restitution provisions at paragraph 5 of the Order is subject to discharge, GARY L. HOLMAN will in no manner contest any assertions by OTS (or the Federal Deposit Insurance Corporation) that said obligation, established by a banking agency consent order pursuant to 12 U.S.C. § 1818(b)(6)(A), arises out of facts that result in claims not dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(11).

(b) In any bankruptcy proceeding in which it is or may be contended that the financial obligation of GARY L. HOLMAN pursuant to the civil money provisions at paragraph 6 of the Order is subject to discharge, GARY L. HOLMAN will in no manner contest any assertions by OTS that said financial obligation, established

under 12 U.S.C. § 1818(i)(2), is: (i) a penalty payable to and for the benefit of a governmental unit that is not dischargeable due to the operation of 11 U.S.C. § 523(a)(7), and (ii) arises out of facts that result in claims not dischargeable in bankruptcy due to the operation of 11 U.S.C. § 523(a)(11).

8. No Indemnification. GARY L. HOLMAN shall neither (i) cause or permit Homestead Savings, which is in receivership (or any subsidiary or other affiliate thereof) to incur, directly or indirectly, any Covered Expenses (as defined below), nor (ii) apply to or obtain any indemnification (or other reimbursement) from Homestead Savings (or any subsidiary or other affiliate thereof) with respect to any such Covered Expenses directly or indirectly incurred by him. Any such payments received by or on behalf of GARY L. HOLMAN in connection with this action shall be returned to Homestead Savings, including any receiver or successor thereof. For purposes of this paragraph, "Covered Expenses" refers to: (i) any and all amounts that GARY L. HOLMAN is required to pay pursuant to the Order; (ii) any and all legal or other professional expenses incurred by GARY L. HOLMAN in connection with the OTS's formal examination (No. PIT-90-17) concerning Homestead Savings and affiliated companies; and/or (iii) any and all legal or other professional expenses incurred by GARY L. HOLMAN in connection with the negotiation of this settlement concluded by execution of this Stipulation and issuance of the Order.

9. Understanding about Financial Condition; Restitution.

(a) It is understood that, as part of this settlement,

the OTS has agreed to the amounts of the restitution and civil money penalty imposed by the Order, based on the OTS's reliance on GARY L. HOLMAN's representations about his current financial condition, as set forth in a written statement of financial condition dated January 25, 1996 (on OTS Form 1571, the "Statement of Financial Condition"), which has been signed by GARY L. HOLMAN. In the event that any information included in the Statement of Financial Condition is found to be false or misleading with respect to any material fact, or if in connection with the Statement of Financial Condition GARY L. HOLMAN shall have omitted to state a material fact concerning any matter addressed in the Statement of Financial Condition, then, without limitation on other available remedies available under Federal law, the OTS may, in the exercise of its discretion, institute proceedings for the OTS's issuance of an administrative order against GARY L. HOLMAN directing him to make payments pursuant to 12 U.S.C. § 1818(b)(6) and/or assessing against him civil money penalties, notwithstanding the release at paragraph no. 1 of this Stipulation. In connection with any administrative proceeding or other litigation instituted by virtue of the OTS's rights retained by this paragraph no. 9(a), GARY L. HOLMAN waives any right he may otherwise have to assert that he should not be deemed an institution-affiliated party subject to the OTS's jurisdiction, but no other waivers by GARY L. HOLMAN set forth in this Stipulation shall be applicable in such administrative proceeding or litigation.

(b) The restitution payment, pursuant to 12 U.S.C. §

1818(b) (6) (A), required by paragraph 5 of the Order solely relates to GARY L. HOLMAN's financial gain from his participation in a real estate joint venture known as N-H Associates, and does not concern or otherwise relate to any other liability, if any, of GARY L. HOLMAN with respect to his service as a director or officer of Homestead Savings, Homestead Holding Corporation, or any subsidiary or affiliate of either of them.

10. Communications and Payment Procedures.

(a) GARY L. HOLMAN shall make his payment of the civil money penalty, which is required by paragraph 6 of the Order, by cashier's check, bank check or money order made payable to the order of the Treasurer of the United States, and he shall submit such payment, under the cover of a letter, sent by Certified Mail (Return Receipt Requested) addressed to the OTS's Controller as follows:

Ms. Elisabeth M. Gustafson
Controller
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

with a copy of the check and cover letter also sent to the OTS's enforcement counsel identified below. The cover letter accompanying the payment by GARY L. HOLMAN shall refer to the OTS's Order by its number, which is referenced at the caption on the first page of this Stipulation.

(b) The OTS may send written notices to GARY L. HOLMAN care of his counsel:

John J. McGrath, Esq.
McKissock & Hoffman
1700 Market Street
Philadelphia, Pennsylvania 10103-3930

(c) Except as otherwise provided by subparagraph (a) hereof, all communications required or permitted to be sent by GARY L. HOLMAN to the OTS shall be sent to:

Robert C. Albanese, Acting Regional Director
Office of Thrift Supervision
Northeast Regional Office
10 Exchange Place, 18th Floor
Jersey City, New Jersey 07302

with a copy also sent to Steven A. Rosenberg, the OTS's Senior Enforcement Counsel, at the aforesaid address for the OTS's Northeast Regional Office, or such other addresses as may be the subject of written notice to GARY L. HOLMAN by the OTS.

11. Miscellaneous.

(a) The construction and validity of this Stipulation and the Order shall be governed by the laws of the United States of America.

(b) All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns due to the operation of Federal banking law, including any amendments thereto.

(c) The terms of this Stipulation represent the final written agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters.

(d) The terms of this Stipulation may not be amended or modified except by formal written agreement of the parties hereto.

WHEREFORE, on this 11th day of March 1996, GARY L. HOLMAN
executes this Stipulation, intending to be legally bound hereby.

Accepted by:

OFFICE OF THRIFT SUPERVISION



GARY L. HOLMAN

By:



Robert C. Albanese
Acting Regional Director,
Northeast Region

Date: March 14, 1996

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION, DEPARTMENT OF THE TREASURY

In the Matter of)	
GARY L. HOLMAN,)	OTS Order No. NE96-6
)	Dated: March 14, 1996
formerly an officer and)	
director of Homestead Savings)	
Association, Middletown,)	
Pennsylvania)	

**CONSENT CEASE-AND-DESIST ORDER REQUIRING AFFIRMATIVE RELIEF
AND CONSENT ORDER ASSESSING CIVIL MONEY PENALTY**

WHEREAS, GARY L. HOLMAN had served as the President and as a director of Homestead Savings Association, Middletown, Pennsylvania, which was a federally insured savings association regulated by the Office of Thrift Supervision ("OTS"); and

WHEREAS, GARY L. HOLMAN has executed the accompanying Stipulation and Consent to Issuance of Consent Order ("Stipulation"); and

WHEREAS, GARY L. HOLMAN, in the Stipulation, has consented and agreed to the OTS's issuance of this CONSENT CEASE-AND-DESIST ORDER REQUIRING AFFIRMATIVE RELIEF AND CONSENT ORDER ASSESSING CIVIL MONEY PENALTY ("Order"); and

WHEREAS, the undersigned OTS Acting Regional Director has been duly delegated the authority to cause the OTS to issue consent orders.

NOW THEREFORE, IT IS ORDERED pursuant to sections 8(b) and 8(i)(2)(A) of the Federal Deposit Insurance Act, 12 U.S.C. §§ 1818(b) and 1818(i)(2)(A),¹ that:

1. All references to the United States Code (U.S.C.) are as amended as of the date of this Order, except as otherwise specifically provided.

1. Fiduciary Duties. Whenever GARY L. HOLMAN is a director, officer or other institution-affiliated party (within the meaning of 12 U.S.C. § 1813(u)) of a Banking Institution (as defined below and including but not limited to any insured depository institution), he shall fulfill his fiduciary duties to such institution, including but not limited to his fiduciary duties of loyalty, candor and care.

2. Regulatory Compliance. Whenever GARY L. HOLMAN is a director, officer or other institution-affiliated party of any Banking Institution, he shall not engage or participate in any violations of any federal banking laws or regulations, as now in effect or as they may be hereafter amended or superseded, including, but not limited to, the Home Owners' Loan Act, the Federal Deposit Insurance Act, the Federal Reserve Act, the Bank Holding Company Act, and the regulations of the federal banking agencies codified at Title 12 of the Code of Federal Regulations.

3. Limitations Pursuant to 12 U.S.C. § 1818(b)(7).

(a) GARY L. HOLMAN, whenever acting or serving as a director, officer or other institution-affiliated party of any Banking Institution, shall abstain from voting, as a director or officer of the Banking Institution, on any proposed transaction of the Banking Institution where the proposed transaction involves a "related interest" of GARY L. HOLMAN (within the meaning of 12 C.F.R. § 215.2(n) (1995)).

(b)(1) Except as otherwise permitted by subparagraph (b)(2) of paragraph 3 of this Order, GARY L. HOLMAN, whenever acting or serving as a director, officer or other institution-affiliated party of any Banking Institution, shall not do any of

the following on behalf of such Banking Institution: (i) approve or otherwise authorize the granting of Covered Loans (as defined below); (ii) authorize or approve the Banking Institution's participation in real estate joint venture activities; (iii) make decisions relating to the restructuring of delinquent Covered Loans owed to the Banking Institution; (iv) sign and/or issue on behalf of the Banking Institution written loan commitments for Covered Loans without the prior documented approval for issuance of such commitments by the Banking Institution's Board of Directors (or any committee of directors and/or officers to which the Board of Directors has delegated the authority to approve loan applications); and (v) Classify (as defined below) the Banking Institution's loans and other assets.

(2) The limitations imposed by subparagraph (b) (1) of paragraph 3 of this Order shall not prevent GARY L. HOLMAN from participating in deliberations and decisions made by such Banking Institution's Board of Directors (or a committee thereof) or a committee comprised of officers and/or directors of such Banking Institution, provided that such Board of Directors, committee of the Board of Directors, or other qualifying committee has no fewer than five members.

(c) The provisions of subparagraphs (a) and (b) of paragraph 3 of this Order shall not be construed to limit or otherwise affect the requirements imposed on GARY L. HOLMAN by paragraphs 1 and 2 of this Order.

4. Disclosure. GARY L. HOLMAN, within ten days of service of this Order, shall disclose in writing to the Board of Directors of any Banking Institution with respect to which he is an

institution-affiliated party, the existence of any and all "companies" (within the meaning of 12 C.F.R. § 215.2(b) (1995)) over which GARY L. HOLMAN is deemed or presumed to have control (within the meaning of 12 C.F.R. § 215.2(c) (1995)), and such disclosure shall include (but not be limited to) the name of each such company and each of the other persons (e.g., partners and controlling stockholders) who also control such companies. Promptly following any change in GARY L. HOLMAN's control of any company (including acquiring control of a previously undisclosed company) GARY L. HOLMAN shall provide accurate and meaningful information about the change to the Board of Directors of the Banking Institution with respect to which he is then an institution-affiliated party, if any.

5. Payment Pursuant to 12 U.S.C. § 1818(b)(6)(A). Within ten (10) days of service of this Order, GARY L. HOLMAN shall pay restitution in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00 U.S.) to the Federal Deposit Insurance Corporation, as successor Receiver for Homestead Savings Association. GARY L. HOLMAN shall make such payment by delivering to the OTS (in the manner provided below) a certified check or cashier's check in the aforesaid amount made payable to the order of the Federal Deposit Insurance Corporation. GARY L. HOLMAN shall send said check (by reputable express delivery service) to: Steven A. Rosenberg, Senior Enforcement Counsel, Office of Thrift Supervision, 10 Exchange Place, 17th Floor, Jersey City, New Jersey 07302.

6. Civil Money Penalty. GARY L. HOLMAN is hereby assessed, pursuant to 12 U.S.C. § 1818(i)(2)(A), a civil money penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500.00), and

GARY L. HOLMAN shall pay said penalty, within ten (10) days of service of this Order, by delivering to the OTS's Controller's Division a certified or cashier's check in said amount payable to the order of the Treasurer of the United States.

7. Responses to Requests. GARY L. HOLMAN shall promptly and appropriately respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

8. Definitions. For purposes of this Order --

(i) "Banking Institution" refers to any and all of the following: any "insured depository institution" as that term is defined at 12 U.S.C. § 1813(c) (including but not limited to banks and savings associations); any direct or indirect subsidiary of an insured depository institution, whether wholly or partly owned; any "insured credit union" within the meaning of 12 U.S.C. § 1752(7); any "savings and loan holding company" within the meaning of 12 U.S.C. § 1467a(a)(1); any "bank holding company" within the meaning of 12 U.S.C. § 1841; and any direct or indirect subsidiary of any such holding companies, whether wholly or partly owned;

(2) to "Classify" loans and other assets of the Banking Institution means to assign quality ratings (pursuant to 12 C.F.R. § 563.160, OCC Banking Circular 201-Rev., or other applicable regulatory requirement) to the Banking Institution's loans and other assets, following the institution's review thereof, in connection with the institution's establishment of its Allowance for Loan and Lease Losses, general valuation allowances, and/or specific valuation allowances, which allowances are

required to be reported or otherwise reflected on the institution's Commercial Bank Call Reports or Thrift Financial Reports, as applicable; and

(3) "Covered Loans" refers to any loans or other extensions of credit exceeding \$150,000, except for residential mortgage loans secured by 1-to-4 family residential property that conform with the underwriting criteria specified by Freddie Mac and/or Fannie Mae;

(4) Any terms used herein that are defined in other paragraphs of this Order (including the Stipulation incorporated herein) shall have the meanings ascribed to them in such paragraphs; and

(5) Except as otherwise expressly provided in this Order, any terms used herein that are defined in the Home Owners' Loan Act or the Federal Deposit Insurance Act shall have the meanings ascribed to them in said statutes. See, e.g., 12 U.S.C. § 1813.

9. Stipulation. The Stipulation is made a part hereof and is incorporated herein by this reference.

10. Effectiveness of Order. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. This Order shall remain in effect until it is terminated, modified or suspended, which may occur only by formal written action of the OTS, acting by and through its Director, Regional Director or other authorized representative.

OFFICE OF THRIFT SUPERVISION

By: 

Robert C. Albanese
Acting Regional Director (Northeast)